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SUBJECT: JERUSALEM - MUGHRABI GATE AT UNESCO'S 180TH EXECUTIVE
BOARD SESSION

REF: AMMAN 2632

¶1. (SBU) Summary: At its autumn (180th) session, UNESCO's Executive Board had great difficulty achieving consensus on a decision regarding the proposed Mughrabi ascent to Jerusalem's Temple Mount. For the first time Jordan and the Palestinians insisted on involving the Chairman of the Executive Board and his six regional Vice-Chairs (Norway, South Africa, India, Brazil, Egypt, and Lithuania) in discussion of this issue. Jordan and the Palestinians also demanded that the Board express "concern" at what they claimed was Israel's "unilateral decision" to proceed with construction of the Mughrabi ascent. Israel opposed both these procedural and substantive demands. The Israeli Ambassador wanted UNESCO Deputy Director General (DDG) Marcio Barbosa (Brazil) to continue quiet, backstage mediation as he has in the past and only agreed with greatest reluctance to a short "information meeting" with the Chairman and Vice-Chairs. The Israeli adamantly refused to agree to any proposal that would have had the Board express "concern" at the Mughrabi situation or describe the decision of the Jerusalem planning authority to proceed with construction of the ascent as "unilateral."

¶2. (SBU) Summary Continued: In the end, the "information meeting" with the Vice-Chairs contributed little but confusion, as the Vice-Chairpersons subsequently tried to involve themselves in the negotiations. After a dramatic failure to agree on a consensus decision at the Board's scheduled closing session on October 17, the Board agreed exceptionally to suspend that session until October 21.

Ultimately, the Jordanian MFA's Legal Advisor flew to Paris and made a compromise proposal on October 20 that did not violate Israel's "red lines." It was adopted without debate on October 21, a full four days after the Executive Board had been expected to adjourn (see para 12 for the final text of the decision). End Summary.

¶3. (U) Issues involving the Temple Mount (a World Heritage Site) and its reconstruction of the Mughrabi ascent have been a hardy perennial on the agenda of UNESCO's twice yearly Executive Boards. UNESCO has a tradition of dealing with matters by consensus and for several years its 58-member Executive Board has been able to maintain this custom with regard to issues relating to Jerusalem and the Temple Mount. In recent Board meetings, DDG Barbosa has met behind the scenes separately and together with the Israelis, Jordanians, and Palestinians (none of whom are currently Board

members) to hammer out consensus texts for presentation to the Board - usually late in its three week session. These have been approved by the plenary rapidly and without debate. The U.S. has strongly supported Barbosa while pushing to have technical issues related to the design the Mughrabi ascent referred to the World Heritage Committee, the treaty body of UNESCO's 1972 World Heritage Convention.

¶4. (SBU) Negotiations, however, did not follow the usual pattern at the most recent Executive Board session which began on September 30 and finally adjourned on October 21. As foreshadowed in reftel, Jordan and the Palestinians took a significantly harder line. They began by demanding a "new format" for negotiations, requesting the involvement of the Chairman of the Executive Board and the six regional Vice-Chairs. (Comment: We suspect the Jordanians and Palestinians felt the usual backroom talks led by Barbosa had become too routine and lacking in theatrics. End Comment.) Israel initially rejected the idea, preferring to rely as normal on the DDG's good offices. Under great pressure from Executive Board Chairman Olabiyi Yai (Benin), however, Israeli Ambassador David Kornbluth reluctantly agreed to participate in an "information meeting" on the morning of Thursday, October 16, in which Israel, Jordan, and the Palestinians explained their points of view to the six Vice-Chairpersons and the ambassadors of the U.S., France (current European Union President), and Spain (current chair of the World Heritage Committee).

¶5. (SBU) The "information meeting" meeting achieved nothing beyond adding confusion to an already difficult situation. Israel, Jordan,

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TAGS: [UNESCO](#) [PREL](#) [KPAL](#) [JO](#) [IS](#)

SUBJECT: JERUSALEM - MUGHRABI GATE AT UNESCO'S 180TH EXECUTIVE BOARD SESSION

and the Palestinians had by this point reached an impasse over the substance of the draft. The Jordanians and Palestinians wanted the Executive Board to "express its deep concern with regard to the decision taken, in a unilateral way, by the Jerusalem District Planning and Construction Commission to approve the town planning scheme for the Mughrabi ascent." This was completely unacceptable to the Israelis who said they would not agree to a decision that had the Board expressing "concern," and that characterized the Jerusalem planning authority's act as a "unilateral decision." Throughout the day on October 16, DDG Barbosa met with the concerned delegations to see if he could come up with wording that would bridge the gap. The U.S. stayed in close touch with the Israeli Ambassador, and the U.S., French, and Spanish ambassadors working together made several drafting suggestions to Barbosa without becoming directly involved in shuttling between the parties. None of the many proposals made won the agreement of all, and the day ended without progress.

¶6. (SBU) The situation became dramatic on Friday, October 17 as the deadline for adjournment of the Executive Board loomed. Chairman Yai convened a morning meeting to discuss the situation with the U.S., French, and Spanish ambassadors and the four regional Vice-Chairpersons (Egypt, India, Brazil, and South Africa) available to meet on such short notice. The French strongly criticized further involvement of the Vice-Chairs, and the U.S. Ambassador left the meeting in protest when the Chairman and Vice-Chairs began to consider involving themselves further in Barbosa's efforts to broker a deal. Despite the meddling, Barbosa shuttled fruitlessly between the Israelis and Jordanians and Palestinians until the Israeli Ambassador left the premises at 4:00 p.m. in time to be home for the onset of the Jewish Sabbath. With delegations milling about impatiently in the main meeting room waiting for the Board's final plenary session to begin, Chairman Yai convened yet another meeting of the Vice-Chairs and the U.S., France, and Spain. By this time, many delegations feared that the Arabs wanted to force a rare and extraordinary vote on a draft decision that would contain their preferred language.

¶7. (SBU) The involvement of the Chairman and his colleagues did not benefit the Jordanians and Palestinians as much as they had hoped. After conferring, the Chairman and his Vice-Chairs summoned the Jordanians and Palestinians and made clear to them that UNESCO's tradition of consensus decision-making must be upheld and a vote avoided. They attempted to convince Jordan and the Palestinians to

agree to language that the Israeli Ambassador had said he could accept before his departure, but the former once again refused. When the Executive Board's plenary session finally resumed at 7:00 p.m., Chairman Yai distributed a draft decision as a supposed chairman's text that included language Israel could accept, but which the Jordanians and Palestinians had already rejected. In doing this, Yai broke the UNESCO custom that a chairman's text is always a consensus document acceptable to all parties. The 58 delegations present sat in stunned silence for a moment while Yai attempted to gavel the resolution adopted, even though delegates had had only a few moments to study it. The French Ambassador, however, objected to immediate adoption of the text, claiming the move was over-hasty. This opened the floodgates and numerous delegations spoke up in opposition. Finally, the French ambassador moved that the meeting of the Board be adjourned until Tuesday evening October 21 (N.B. four days after the regularly scheduled end of the Board's session).

¶18. (SBU) The weekend and Monday, October 20th saw still more negotiations. The Jordanian MFA Legal Advisor was dispatched to Paris with a new formulation for the draft decision. Barbosa sent this latest text to Israel's ambassador, David Kornbluth, who by then was in Israel on vacation. Kornbluth said he could accept it, and the text (see para 12 below) was finally adopted without debate and by consensus on October 21.

¶19. (SBU) Comment: The Jordanians and Palestinians looked pleased when this decision was finally adopted. It is hard, however, to see how the final result is significantly better than the many formulas they were offered and rejected last week. They did not succeed in

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having the Board itself express collective concern, and the balanced reference to unilateral action echoes the formula agreed at the July World Heritage Committee meeting in Quebec. One can only speculate as to why the Arabs chose not seek a vote on their preferred language, as some had anticipated. They may have been influenced by Egypt which wanted to avoid a major clash over Jerusalem at this Board, fearing harm to the chances of Egypt's candidate to replace Director General Matsuura when he retires next year. They may also have been deterred by the opposition to a vote that came from India and other G-77 countries. Finally, they may have calculated that a victorious vote might have led Israel to break off completely the dialogue on issues related to the Temple Mount that is effectively being conducted through UNESCO's good offices.

¶10. (SBU) Comment continued: As satisfying as a consensus agreement on such an emotional issue is, we cannot become complacent. The decision adopted requires the Director General to report on the Mughrabi ascent situation at the Executive Board's April 2009 meeting, and this will give Jordan and the Palestinians an opportunity to raise their concerns again. It will be very important ensure the issue is handled carefully. DDG Barbosa has demonstrated talent for the patient, quiet diplomacy needed to bring these difficult parties together. He does not need kibbitzing from delegations which may not know this issue well and may be more interested in posturing than in finding solutions. We can reliably predict, however, that the regional Vice-Chairs, in particular India, will try to use what happened at this Board to claim a role for themselves whenever this issue comes up again. In speeches given after adoption of the decision on October 21, both India and Brazil commended Chairman Yai for his decision to involve the Vice-Chairs and expressed the hope that they will be involved in the future. Russia spoke up to say that it did not consider that the Eastern Europe Vice-Chair, Lithuania, spoke for Russia, and to ask that Russia be included in any succeeding negotiations on this topic. This way lies danger, and we will have to be extra vigilant in succeeding Boards to ensure that Barbosa is left free to do his job without having the Vice-Chairs and others interfering. We doubt in any case that Israel will be agreeable to participate in talks that involve the other Vice-Chairs.

¶11. (SBU) Comment Continued: Competent, even-handed leadership is important if UNESCO is to deal effectively with the highly sensitive issues that surround the Temple Mount World Heritage site. Director General Matsuura and DDG Barbosa have dealt with these issues with professionalism and impartiality. Matsuura and Barbosa must leave office, however, in the autumn of 2009. It will be important to ensure that they have equally competent and impartial replacements. In the wrong hands, UNESCO could exacerbate the already tense situation in Jerusalem rather than provide a forum, as it does now, where Israel, the Jordanians, and Palestinians can discuss management of the Temple Mount site.

¶12. (U) Following is the text of the decision finally adopted by the UNESCO Executive Board:

Begin Text.

The Executive Board,

¶11. Having examined document 180 EX/5 Add.3 Rev.,

¶12. Recalling 176 EX/Special Plenary Meeting/Decision, 177 EX/Decision 20, 179 EX/Decisions 9 and 52,

¶13. Further recalling Decisions 31 COM 7A.18 and 32 COM 7A.18 adopted by the World Heritage Committee at its 31st (Christchurch, 2007) and 32nd (Quebec City, 2008) sessions respectively,

¶14. Also recalling the relevant provisions on the protection of

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cultural heritage including, as appropriate, the four Geneva Conventions (1949), the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954, the Convention for the Protection of the World Cultural and Natural Heritage of 1972, the inscription of the Old City of Jerusalem and its Walls at the request of Jordan on the World Heritage List (1981) and on the List of World Heritage in Danger (1982), and the recommendations, resolutions and decisions of UNESCO,

¶15. Reaffirming the purpose and spirit of the professional encounter at the technical level of 13 January 2008, as well as the follow-up meeting of 24 February 2008,

¶16. Being aware that the process for the design of the Mughrabi ascent, which allows for the taking into consideration of the proposals submitted during the professional encounter, is still under way, and that the World Heritage Centre is following closely the developments associated with this process through its Reinforced Monitoring Mechanism,

¶17. Being aware of the deep concerns regarding the decision taken by the Jerusalem District Planning and Construction Commission on the town planning scheme for the Mughrabi ascent,

¶18. Requests that, despite this decision, the process for the design of the Mughrabi ascent be inclusive of all concerned parties, in accordance with the spirit and content of previous World Heritage Committee decisions;

¶19. Reaffirms that no measures, unilateral or otherwise, should be taken which will affect the authenticity and integrity of the site, in accordance with the Convention for the Protection of the World Cultural and Natural Heritage of 1972;

¶10. Reiterates the request made by the World Heritage Committee at its 32nd session in Decision 32 COM 7A.18 that the Israeli authorities continue the cooperation engaged with all concerned parties, in particular with Jordanian and Waqf experts;

¶11. Reiterates the request made by the World Heritage Committee at its 32nd session in Decision 32 COM 7A.18 that the World Heritage Centre organize a technical follow-up meeting at the site with all concerned parties for additional exchanges of information to enable all necessary inputs to be considered;

¶12. Notes with satisfaction that the follow-up meeting requested by the World Heritage Committee at its 32nd session in Decision 32 COM 7A.18 is tentatively scheduled for early November 2008;

¶13. Expresses its thanks to the Director-General for the action he has taken to facilitate the dialogue and professional exchanges between all the concerned parties;

¶14. Invites the Director-General to submit to it a progress report thereon at its 181st session.

End text.

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